

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2014-0108; Directorate Identifier 2013-CE-052-AD; Amendment 39-18063; AD 2015-01-02]

RIN 2120-AA64

Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Mitsubishi Heavy Industries, Ltd. Models MU-2B-30, MU-2B-35, MU-2B-36, MU-2B-36A, and MU-2B-60 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as stress corrosion cracking in the flanges of the airframe at stations 4610 and 5605. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective February 26, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of February 26, 2015.

ADDRESSES: You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2014-0108; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Mitsubishi Heavy Industries America, Inc., c/o Turbine Aircraft Services, Inc., 4550 Jimmy Doolittle Drive, Addison, Texas 75001; telephone: (972) 248-3108, ext. 209; fax: (972) 248-3321; Internet: <http://mu-2aircraft.com>. You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

FOR FURTHER INFORMATION CONTACT:

Kenneth A. Cook, Aerospace Engineer, FAA, Fort Worth Airplane Certification

Office (ACO), 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone: (817) 222-5475; fax: (817) 222-5960; email: Kenneth.A.Cook@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to certain Mitsubishi Heavy Industries, Ltd. (MHI) Models MU-2B-30, MU-2B-35, MU-2B-36, MU-2B-36A, and MU-2B-60 airplanes. The NPRM was published in the **Federal Register** on February 26, 2014 (79 FR 10710). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country.

The Japan Civil Aviation Bureau (JCAB), which is the aviation authority for Japan, has issued AD No. TCD-8231-2013, dated August 6, 2013 (referred to after this as "the MCAI"), to correct an unsafe condition for certain MHI Models MU-2B-30, MU-2B-35, and MU-2B-36 airplanes. You may examine the MCAI on the Internet at <http://www.regulations.gov/#!documentDetail;D=FAA-2014-0108-0002>.

The JCAB has informed us that as part of the MHI continuing aging aircraft program, Models MU-2B-30, MU-2B-35, and MU-2B-36 airplanes were subjected to detailed teardown inspections. During the inspections, structural cracks in the flanges of some long body airplane frames were found at frame station (STA) 4610 and STA 5605. It has been determined that the structural cracks resulted from stress corrosion.

Japan is the State of Design for (MHI Models MU-2B-30, MU-2B-35, and MU-2B-36, which the MCAI applies to, and the United States is the State of Design for MHI Models MU-2B-36A and MU-2B-60 airplanes. Since the Models MU-2B-36A and MU-2B-60 airplanes are of similar type design, the same structural cracks could exist.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and the FAA's response to each comment.

Request To Extend Comment Period

Mike Ciholas and seven others stated that they need more time for discussions at seminars and to obtain more information from MHI and Turbine Aircraft Services.

The commenters requested the comment period be extended to allow for more time to gather and analyze data.

We do not agree with the commenters. We have considered the request and have determined sufficient evidence and data exist, specifically information recently from MHI on the inspections of 18 of the 119 airplanes in the U.S. fleet that indicate that 8 of them were cracked. Out of these eight, four have been removed from service. Based on the data presented in the NPRM and this more detailed information provided by MHI, the location of cracks, and the cause of cracking (stress corrosion), we have concluded that the inspections are necessary to address the unsafe condition.

We have not changed the final rule AD action based on this comment.

Request To Withdraw Proposed AD

Mike Ciholas and eight others stated that the unsafe condition addressed in the proposed AD be handled as part of routine inspections. The commenters stated that there has never been any incident, accident, injury, or fatality attributed to this issue despite the millions of flight hours the MU-2B airplane has accumulated, including those hours that some airplanes have flown with a crack present. There has never been any damage to any airplane from this issue. None of the subject parts have failed to perform in service, cracked or otherwise.

Mark James of Intercontinental Jet Service Corp. and two others stated that there have been no failures in the airframes.

The commenters requested that the proposed AD be withdrawn.

We do not agree with the commenters. While there have been no failures to date, the stress corrosion cracking exhibited is in primary load structure. Upon crack initiation, the frames will have diminished load carrying capabilities, which will propagate over time, potentially leading to failure. Although previous inspection requirements specify visual inspection of all frames, no instruction was provided for accessing the difficult to reach areas where the subject cracks have been found. In addition, we are issuing this AD to address the unsafe condition and prevent such failures of this airplane.

We have not changed the final rule AD action based on this comment.

Request To Delay Issuing the Final Rule AD Action

David Klain and six others stated that they wanted the FAA to hold the

proposed AD in abeyance and request additional data from the manufacturer, service centers, and the owner/operator community. At the very least, all inspections completed to date should be considered and an evaluation made as to what specifically is causing these cracks, other than the simple fact these are MU-2 long body airplanes. Additional data can be collected from ongoing inspections conducted in accordance with the maintenance manual as well. Once that data is collected, an informed decision based on facts instead of speculation can be made.

The commenters requested that we delay issuing the final rule AD action.

We do not agree with the commenters. We have considered the request to delay issuing the final rule AD action and have determined that sufficient evidence and data exist, specifically information recently from MHI on the inspections of 18 of the 119 airplanes in the U.S. fleet that indicate that 8 of them were cracked. Out of these eight, four have been removed from service. Based on the data presented in the NPRM and this more detailed information provided by MHI, the location of cracks, and the cause of cracking (stress corrosion), we have concluded that the inspections are necessary to address the unsafe condition. Further delay of the final rule AD action would allow a known unsafe condition to exist without AD action to address it.

We have not changed the final rule AD action based on this comment.

Request To Verify Cost of Compliance

David Klain and three others stated that the Mitsubishi Service Centers have indicated that the time and cost estimates detailed in the proposed AD are not accurate and do not reflect the actual higher costs and time necessary to complete the inspection based on the inspections completed to date.

The commenters requested a change to the Cost of Compliance section.

We do not agree with the commenters. The cost provided by the original equipment manufacturer (OEM) is a rough order of magnitude estimate based on available information and standardized cost evaluation methods.

We have not changed the final rule AD action based on this comment.

Request To Withdraw Proposed AD

David Klain and three others stated that the proposed AD is based on non-representative airframes. The proposed AD was derived from a service bulletin that originated from inspections of a limited, non-representative sample of airframes that have been removed from

service and represent the worst possible scenario with regards to airframe stress (freighters).

The commenters stated that since Special Airworthiness Information Bulletin (SAIB) No. CE-03-26, dated February 28, 2003 (which can be found at [http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgSAIB.nsf/\(LookupSAIBs\)/CE-03-26?OpenDocument](http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgSAIB.nsf/(LookupSAIBs)/CE-03-26?OpenDocument)), three additional airplanes with a total airframe time and operational use (non-freighter) that is more representative of the fleet have been inspected at several service centers and not a single plane exhibited the cracks in question. The commenters stated, based on these findings, there is a situation where a very small sample size may give some indication there is a correlation between total time and/or airplane utilization (freighters with heavy takeoff/landing weights and many cycles) and the cracks in question, but further empirical data is likely necessary to draw any firm conclusions.

The commenters also stated that the costly inspection goes against the FAA's mandate to encourage and promote aviation by potentially mandating a costly inspection that would result in the decommissioning of perfectly safe and flyable airplanes for no reason other than the high cost of an inspection mandated by the FAA without any engineering data to support such inspections.

We infer that the commenters believe that the final rule AD action is unnecessary and want the proposed AD withdrawn.

We do not agree with the commenters. More detailed information from MHI on the inspections of 18 of the 119 airplanes in the U.S. fleet indicate that 8 of them were cracked of which 5 were used as freighters. Out of these eight, four have been removed from service. Based on the data presented in the NPRM and this more detailed information provided by MHI, the location of cracks, and the cause of cracking (stress corrosion), we have concluded that the inspections are necessary to address the unsafe condition.

The OEM has also provided the time and cost information presented in this final rule AD action.

We have not changed the final rule AD action based on this comment.

Request To Include a Less Expensive Repair Option

Richard Wheldon and one other commenter stated that there is a less expensive repair available to the owners/operators of the affected airplanes.

The commenters stated that the repairs specified in the Mitsubishi Heavy Industries, Ltd. (MHI Ltd.) MU-2 Service Bulletins No. 231, dated July 2, 1997, and No. 073/53-002B, dated April 27, 1999, involve doublers and are much less intrusive and less labor intensive. The repairs in MHI Ltd. MU-2 Service Bulletins No. 242, dated July 10, 2013, and No. 104/53-003, dated July 22, 2013, involve large splices and/or frame segment replacements, which are very costly. It is not explained why the less expensive methods were not proposed. In discussions with experienced sheet metal mechanics and structures engineers, they expressed that other repair schemes are possible that adequately address any safety concerns and are much less costly.

Many of the cracks found at the lower sections of the bottom frame segments might be repairable using doublers rather than replacing the entire lower frame segments, which is the only solution allowed in the proposed AD. Obviously, the replacement of an entire lower frame segment is a huge, potentially unnecessary undertaking involving considerable assembly and disassembly. Any conventional solution short of frame segment replacement should be investigated.

The commenters also stated that an operator is not allowed to repair the side frame segments per MHI Ltd. MU-2 Service Bulletins No. 231, dated July 2, 1997, and No. 073/53-002B, dated April 27, 1999, and still be in compliance with the proposed AD. The only solution to a side frame crack allowed per MHI Ltd. MU-2 Service Bulletins No. 242, dated July 10, 2013, and No. 104/53-003, dated July 22, 2013, is the much more expensive replacing of the side frame segment.

The commenters requested compliance based on MHI Ltd. MU-2 Service Bulletins No. 231, dated July 2, 1997, and No. 073/53-002B, dated April 27, 1999, at a minimum, be permitted in the final rule AD action.

We do not agree with the commenters. MHI Ltd. MU-2 Service Bulletins No. 231, dated July 2, 1997, and No. 073/53-002B, dated April 27, 1999, require inspecting for cracks that are specifically located around rivet holes. The service bulletins specified in this AD require inspecting for cracks in a different area, specifically throughout the frame flanges.

If lower cost repair methods exist that meet the intent of the proposed AD, you may propose an alternative method of compliance or a change in the compliance time that provides an acceptable level of safety using the procedures found in 14 CFR 39.19.

We have not changed the final rule AD action based on this comment.

Request To Consider Other Causes of the Cracks

David Klain and one other commenter stated that the proposed AD does not accurately consider what the causal factors are that may have caused the cracks in question (airframe age, cycles, total time, utilization as freighters, etc.) due to lack of adequate representative data.

The commenters requested the FAA to further investigate the cause of the cracks.

We do not agree with the commenters. We have evaluated the data provided and have determined that the cause of cracking is stress corrosion. We have determined that is sufficient evidence and data of an unsafe condition and we should proceed with issuing the final rule AD action.

We have not changed the final rule AD action based on this comment.

Request To Utilize Special Airworthiness Information Bulletin (SAIB) No. CE-03-26, Dated February 28, 2003

Mark James of Intercontinental Jet Service Corp. stated that the inspections introduced and recommended in SAIB No. CE-03-26, dated February 28, 2003, which can be found at [http://rgl.faa.gov/Regulatory and Guidance Library/rgSAIB.nsf/\(LookupSAIBs\)/CE-03-26?OpenDocument](http://rgl.faa.gov/Regulatory%20and%20Guidance%20Library/rgSAIB.nsf/(LookupSAIBs)/CE-03-26?OpenDocument), should be sufficient to cover inspections required from this AD because the stresses are the same.

The commenter stated that the inspection criteria in the proposed AD require inspection of a different location of these same frames and the fact is that the frame materials and stresses are the same.

We infer that the commenter believes the inspections introduced and recommended in SAIB No. CE-03-26, dated February 28, 2003, are sufficient in addressing the unsafe condition identified in this AD wants the proposed AD withdrawn.

We do not agree with the commenter. It is stated in the proposed AD that stress corrosion cracking may be located throughout the area of the frame flanges. The inspections recommended in SAIB No. CE-03-26 are more limited and only inspect for stress corrosion cracking at screw holes in the flange.

We have not changed the final rule AD action based on this comment.

Request To Modify the Applicability Section

An anonymous commenter stated that the statistical analysis and evaluation

performed in support of the proposed AD is flawed. The commenter also stated that given the inconsistent data from a sample size that is not representative of the fleet, there appears to be no scientific or engineering basis for issuing the final rule AD action and mandating it for the entire fleet

The commenter stated that Mark James of Intercontinental Jet Service Corp. also stated that the conclusions made by the FAA were not based on an adequate representation of the fleet and that thus far the only cracks found have been on two higher time airframes and not on the many airplanes that have less than one-third of the flight time and cycles

The commenter requested the applicability of the final rule AD action be changed to apply only to high time, high-cycle airplanes.

We do not agree with the commenters. More detailed information from MHI on the inspections of 18 of the 119 airplanes in the U.S. fleet indicate that 8 of them were cracked. Out of the 18 airplanes, 5 of them are used as freighters and all 5 of these were among the 8 found cracked. Four of the eight airplanes found cracked have been removed from service. Based on the data presented in the NPRM and this more detailed information provided by MHI, the location of cracks, and the cause of cracking (stress corrosion), we have concluded that the inspections are necessary to address the unsafe condition.

We have not changed the final rule AD action based on this comment.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 10710, February 26, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 10710, February 26, 2014).

Relevant Service Information

Mitsubishi Heavy Industries, Ltd. has issued Service Bulletin No. 242, dated July 10, 2013, and Service Bulletin No. 104/53-003, dated July 22, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI. The service bulletin describes procedures to inspect and repair/replace

the side and lower frame at stations 4610 and 5605. You can find this service information on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2014-0108.

Costs of Compliance

We estimate that this AD will affect 119 products of U.S. registry. We also estimate that it will take about 100 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be \$1,011,500, or \$8,500 per product.

In addition, we estimate that any necessary follow-on actions will take up to 428 work-hours and require parts costing up to \$14,400, for a cost up to \$50,780 per product. We have no way of determining the number of products that may need such repair based on the results of the inspection. The extent of damage will vary on each airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Is not a "significant rule" under the DOT Regulatory Policies and

Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2014-0108; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2015-01-02 Mitsubishi Heavy Industries, Ltd.: Amendment 39-18063; Docket No. FAA-2014-0108; Directorate Identifier 2013-CE-052-AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective February 26, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Mitsubishi Heavy Industries, Ltd. Models MU-2B-30, MU-2B-35, and MU-2B-36 airplanes, serial numbers 502 through 651, 653 through 660, and 662 through 696, and Models MU-2B-36A and MU-2B-60 airplanes, serial numbers 661SA, 697SA through 799SA, and 1501SA through 1569SA, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 53: Fuselage.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as stress corrosion cracking in the flanges of the airframes at stations 4610 and 5605. We are issuing this AD to detect and correct structural cracks in the airframe flanges, which could reduce the structural integrity of the airplane.

(f) Actions and Compliance

Unless already done, do the actions in paragraphs (f)(1) through (f)(3) of this AD.

(1) Within the next 1,000 hours time-in-service (TIS) after February 26, 2015 (the effective date of this AD) or within the next 3 years after February 26, 2015 (the effective date of this AD), whichever occurs first, inspect the side and lower frames at frame station (STA) 4610 and STA 5605 for cracks and corrosion. Do the inspection following paragraphs 3.0 through 3.3 of Mitsubishi Heavy Industries, Ltd. MU-2 Service Bulletin No. 242, dated July 10, 2013, or Mitsubishi Heavy Industries, Ltd. MU-2 Service Bulletin No. 104/53-003, dated July 22, 2013, as applicable.

(2) If any crack is found during the inspection required in paragraph (f)(1) of this AD, before further flight, do the actions in paragraphs (f)(2)(i) or (f)(2)(ii) of this AD:

(i) Repair the frame following paragraphs 4.0 and 5.0 of Mitsubishi Heavy Industries, Ltd. MU-2 Service Bulletin No. 242, dated July 10, 2013, or Mitsubishi Heavy Industries, Ltd. MU-2 Service Bulletin No. 104/53-003, dated July 22, 2013, as applicable; or

(ii) Replace the frame following paragraphs 4.0, 6.0, and 7.0 of Mitsubishi Heavy Industries, Ltd. MU-2 Service Bulletin No. 242, dated July 10, 2013, or Mitsubishi Heavy Industries, Ltd. MU-2 Service Bulletin No. 104/53-003, dated July 22, 2013, as applicable.

(3) If any corrosion is found during the inspection required in paragraph (f)(1) of this AD, before further flight, repair the damage following the instructions in paragraph 3.2 of Mitsubishi Heavy Industries, Ltd. Service Bulletin No. 242, dated July 10, 2013, or Mitsubishi Heavy Industries, Ltd. Service Bulletin No. 104/53-003, dated July 22, 2013, as applicable.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) **Alternative Methods of Compliance (AMOCs):** The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Kenneth A. Cook, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office (ACO), 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone: (817) 222-5475; fax: (817) 222-5960; email:

Kenneth.A.Cook@faa.gov. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) **Airworthy Product:** For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) **Reporting Requirements:** For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120-0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES-200.

(h) Special Flight Permit

We are allowing special flight permits with the following limitations:

- (1) Essential crew only;
- (2) Minimum weight;
- (3) Limit "G" loading to minimum; and
- (4) Most direct flight to repair center.

(i) Related Information

Refer to MCAI Japan Civil Aviation Bureau (JCAB) AD No. TCD-8231-2013, dated August 6, 2013, for related information. You may examine the MCAI on the Internet at <http://www.regulations.gov/#/documentDetail;D=FAA-2014-0108-0002>.

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Mitsubishi Heavy Industries, Ltd. MU-2 Service Bulletin No. 242, dated July 10, 2013.

(ii) Mitsubishi Heavy Industries, Ltd. MU-2 Service Bulletin No. 104/53-003, dated July 22, 2013.

(3) For Mitsubishi Heavy Industries, Ltd. service information identified in this AD, contact Mitsubishi Heavy Industries America, Inc. c/o Turbine Aircraft Services, Inc., 4550 Jimmy Doolittle Drive, Addison, Texas 75001; telephone: (972) 248-3108, ext.

209; fax: (972) 248-3321; Internet: <http://mu-2aircraft.com>.

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Kansas City, Missouri, on December 30, 2014.

Robert Busto,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015-00007 Filed 1-21-15; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 540

[BOP Docket No. 1148-F]

RIN 1120-AB48

Communications Management Units

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) finalizes regulations that establish and describe Communications Management Units (CMUs) by regulation. The CMUs regulations serve to detail the specific restrictions that may be imposed in the CMUs in a way that current regulations authorize but do not detail. CMUs are designed to provide an inmate housing unit environment that enables staff monitoring of all communications between inmates in a Communications Management Unit (CMU) and persons in the community. The ability to monitor such communication is necessary to ensure the safety, security, and orderly operation of correctional facilities, and protection of the public. These regulations represent a “floor” beneath which communications cannot be further restricted. The Bureau currently operates CMUs in two of its facilities. This rule clarifies existing Bureau practices with respect to CMUs.

DATES: This rule is effective on February 23, 2015.

FOR FURTHER INFORMATION CONTACT:

Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307-2105.

SUPPLEMENTARY INFORMATION: This final rule codifies and describes the Bureau’s procedures for designating inmates to, and limiting communication within, its CMUs. Currently, the Bureau operates two CMUs, separately located at the Federal Correctional Complex (FCC), Terre Haute, Indiana (established in December 2006), and the United States Penitentiary (USP), Marion, Illinois (established in March 2008). A proposed rule was published on April 6, 2010 (75 FR 17324). We received 733 comments during the 2010 comment period. We later reopened the comment period on March 10, 2014, for 15 days (79 FR 13263). We received an additional 443 comments during the 2014 comment period. Similar issues were raised by most of the commenters. We respond below to the issues raised.

Designation to a CMU Is Not Discriminatory or Retaliatory

Several commenters felt that there exists in CMUs an “overrepresentation of Muslim and political prisoners, showing that CMUs are not designed for legitimate purposes, but rather to discriminate and remove and isolate politically active members of society.”

The Bureau does not use religion or political affiliation as a criterion for designation to CMUs. 28 CFR 551.90 states the Bureau’s non-discrimination policy: “Bureau staff shall not discriminate against inmates on the basis of race, religion, national origin, sex, disability, or political belief. This includes the making of administrative decisions and providing access to work, housing and programs.” Further, § 540.201, which describes the designation criteria, must be read in tandem with § 540.202, particularly subparagraph (b), which states that after the Bureau becomes aware of one or more of the criteria described in § 540.201, the Bureau’s Assistant Director for the Correctional Programs Division must conduct a review of the evidence found and make a finding that designation to the CMU is necessary to ensure the safety, security, and orderly operation of correctional facilities or protection of the public. An inmate cannot, therefore, be designated to a CMU based upon religious or political affiliation, both because neither are part of the stated criteria, and because it is also necessary to have credible evidence of a threat to the safety, security, and good order of the institution or protection of the public to support designation to a CMU.

Instead, an important category of inmates that might be designated to a CMU is inmates whose current offense(s) of conviction, or offense

conduct, included association, communication, or involvement, related to international or domestic terrorism. Past behaviors of terrorist inmates provide sufficient grounds to suggest a substantial risk that they may inspire or incite terrorist-related activity, especially if ideas for or plans to incite terrorist-related activity are communicated to groups willing to engage in or to provide equipment or logistics to facilitate terrorist-related activity. The potential ramifications of this activity outweigh the inmate’s interest in unlimited communication with persons in the community.

Communication related to terrorist-related activity can occur in codes that are difficult to detect and extremely time-consuming to interpret. Inmates involved in such communication, and other persons involved or linked to terrorist-related activities, take on an exalted status with other like-minded individuals. Their communications acquire a special level of inspirational significance for those who are already predisposed to these views, causing a substantial risk that such recipients of their communications will be incited to unlawful terrorist-related activity.

The danger of coded messages from prisoners has been recognized by the courts. *See Turner v. Safley*, 482 U.S. 78, 93 (1987) (“In any event, prisoners could easily write in jargon or codes to prevent detection of their real messages.”); *United States v. Salameh*, 152 F.3d 88, 108 (2nd Cir. 1998) (“Because Ajaj was in jail and his telephone calls were monitored, Ajaj and Yousef spoke in code when discussing the bomb plot.”); *United States v. Johnson*, 223 F.3d 665, 673 (7th Cir. 2000) (“And we know that anyone who has access to a telephone or is permitted to receive visitors may be able to transmit a lethal message in code.”); *United States v. Hammoud*, 381 F.3d 316, 334 (4th Cir. 2004) (“A conversation that seems innocuous on one day may later turn out to be of great significance, particularly if the individuals are talking in code.”); *United States v. Moncivais*, 401 F.3d 751, 757 (6th Cir. 2005) (noting that seemingly nonsensical conversations could be in code and interpreted as indicative of drug dealing activity). Also, an Al Qaeda training manual contains the following advice regarding communications from prison: “Take advantage of visits to communicate with brothers outside prison and exchange information that may be helpful to them in their work outside prison. The importance of mastering the art of hiding messages is self-evident here.”